

Considering the exploitation of migrants who sell sex: A case study of Brazilians in the Iberian sex industry

Abstract

Although migrants who sell sex often go through a range of situations which might be considered exploitative, such situations are not always linked with trafficking. Most of the problems seem to be a result of three overlapping issues: problems which result from prostitution's status as a forbidden or at best a grudgingly tolerated (yet still repressed) activity, problems that affect workers in low-status occupations and problems that affect (undocumented) migrants. The situation of Brazilian migrants who sell sex in the Iberian countries clearly illustrates this. While focusing almost exclusively on implementing (largely ineffective and potentially harmful) trafficking policies, Spain and Portugal have not addressed the issues which are considered by migrants as the most significant: police harassment and exploitation, unhygienic and unsafe working environments, lack of access to public services such as healthcare, lack of access to housing, as well as prejudice and stigmatization and the consequences thereof. By relying almost solely on a de jure and de facto law enforcement approach, comprehensive and well established international labour and migration instruments which could benefit all migrants who sell sex are ignored.

Keywords

Migrant sex work, human trafficking, Brazil, Spain, Portugal

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Introduction

Conservative groups, radical feminists and other proponents of the idea that prostitution is inherently exploitative believe that there is no distinction between migrant sex work¹ and trafficking for sexual exploitation² (Farley, 2003: 3). Unsurprisingly, sex workers rights activists take a more nuanced view of the matter and recognise a distinction between the two categories. As such, they often vehemently criticize the use of trafficking instruments and frameworks to suppress the transnational migration of sex workers (Piscitelli and Sprandel, 2010).

The acknowledgment of the existence of both trafficking victims and migrant sex workers must not, however, be reduced to the idea of voluntary versus involuntary migrant prostitution, as it risks reproducing the innocent and guilty dynamic found in the “forced” and “free” prostitution divide (Doezema, 1998). This dichotomy often leads to the criminalisation of those seen as guilty and the infantilisation of those who are seen as victims. Moreover, it frequently results in an environment where every problematic situation faced by migrants who sell sex is seen as an indicator of trafficking. Consequently, migrants who sell sex end up being “rescued” against their will and have the root causes of their problems be completely ignored.

Based upon the idea that the working and living conditions of migrants who sell sex fall into a continuum of situations which may range from ideal to extremely exploitative, this article will showcase that by focusing almost exclusively on a very narrow understanding of “trafficking” states often fail to recognise and address a myriad of other problems that affect migrants working in the sex industry.

In its first half, the article will contend, based on existing literature on the subject, that migrant sex work should not be considered synonymous to trafficking for sexual exploitation. In addition, it will argue that, rather than always being an outcome of trafficking, the exploitative situations migrants who sell sex may be exposed to often result from problems in the sex industry caused by misguided governmental policies, as

¹ Sex work is defined by Bindman and Doezema (1997) as the “negotiation and performance of sexual services for remuneration with or without intervention by a third party[,] where those services are advertised or generally recognised as available from a specific location [and] where the price of services reflects the pressures of supply and demand.”

² *The 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (hereafter the UN Trafficking Protocol) defines the crime as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

well as difficulties faced by those that work in informal and/or low-skilled professions and those faced by (undocumented) migrant workers.

The second half of the article will consist of a case study regarding Brazilian migrants who sell sex in Spain and Portugal. It will explore the range of working conditions Brazilian migrants (particularly women) face in the Iberian sex industry³ and showcase that many of their problems are not related to trafficking, but are in fact similar to those faced by other (migrant) workers in unregulated sectors, as well as being a result of both countries' abolitionist position. In this way, it will show how the current trafficking legislation is unable to address the vast majority of problems faced by migrants who sell sex.

Rather than focus on the perspective given by government officials and police and migration officers, as it often happens in trafficking reports, this article will privilege the narratives of Brazilian migrants who sell sex and focus on how these migrants perceive their situation. Its case study is primarily based on a combination of sources unearthed by the author between 2012 and 2013 which include not only large scale research projects about migrants who sell sex in Europe and the Iberian Peninsula in particular (Brussa, 2009; ⁴ De Sousa Santos et al., 2007; Federación de Mujeres Progresistas, 2009; Malgesini, 2006), but also a series of ethnographic studies which document a variety of experiences faced by Brazilians in the Spanish and Portuguese sex markets from the late 1990s to the second decade of the twenty-first century (Agustín, 2001; López Riopedre, 2010; Oso Casas, 2010; Pelúcio, 2009; Piscitelli, 2011; Ribeiro and Sacramento, 2005).

The reality of migrant sex work

Anti-sex work activists often accuse those in favour of sex workers' rights of glorifying the sex industry and failing to consider all of its problems (see for instance Raymond, 1998). This, however, is not true. Proponents of sex work do recognise that the sex industry can be exploitative and that reforms are needed; they are also quick to point out that several of these problems result from the illegal or unrecognised nature of sex work in most jurisdictions and sex workers' subsequent lack of access to social channels of protection (Catarino and Morokvasic-Müller, 2013).

In the same way proponents of sex work separate prostitution from commercial sexual exploitation, they also consider migrant sex work and human trafficking for the purpose

³ The general term "sex industry" encompasses a variety of forms of commerce (mostly monetary, but not always) involving sexual services (which may involve direct body contact, but also may not). In this article the Iberian sex industry will be limited to prostitution which takes place in clubs (or *casas de alterne*), private residences (mostly apartments) and on the street.

⁴ Previous TAMPEP projects have been criticized for not always examining the totality of the sex industry in a given country, focusing rather on particular groups, such as street sex workers (Agustín, 2001). Thus, data from Brussa (2009), while claiming to represent the situation of prostitution in entire countries, may in fact be representing one particular sector of it.

of sexual exploitation as two distinct phenomena. This divide is also acknowledged by migrants themselves.

While many migrants would not describe their situation as idyllic, they may not consider it exploitative, as that would imply a level of harm they do not feel. Even if they go so far as considering themselves as being exploited, migrants may be reluctant to label themselves as trafficking victims. This may be a result of not considering their situation sufficiently bad, as trafficking is often associated with physical violence, total movement control and conditions analogous to slavery.⁵ We must consider as well that different people may assess similar situations differently and that work conditions are not immutable and may become more or less problematic over time (Weitzer, 2005). The refusal may also represent a desire not to put themselves in a position of victimhood, as the “trafficked” label often results in a loss of agency over decisions in their own lives (Piscitelli, 2006). The reverse is also true: migrants who sell sex may decide to change their narratives if they have assessed (or have been induced to consider) that it is better to present themselves as victims of trafficking, as that might be the only way to escape jail or deportation (Catarino and Morokvasic-Müller, 2013; Piscitelli and Sprandel, 2011).

The manipulation of the concept of trafficking for sexual exploitation is not exclusive to migrants who sell sex. Based on their research with sex workers in five distinct countries,⁶ Segrave, Milivojevic, and Pickering (2009: 58-60) concluded that the identification of trafficking victims by the government was arbitrary and did not correspond to migrants’ experiences. In some countries the label of a *bona fide* trafficking victim (who has access to all the possible benefits of the position) is granted not based on the level of exploitation suffered, but on whether or not the victim can be “instrumentalized in the interest of prosecution” (Konrad, 2008: 162).

The fluidity of the concepts of trafficking victim and migrant sex worker shows that rather than adhere to a strict forced/free divide, the conditions faced by migrants who sell sex, as well as by migrants in a variety of other sectors, may range from optimal to indisputably exploitative. As posited by Skrivankova (2010), between decent work and forced labour there is a continuum of exploitation and each individual situation fluctuates along it. Like in any other form of work, the response to non-ideal conditions will depend on the nature and severity of the issues involved: minor (labour) rights violations can be dealt with through labour instruments, whereas more severe violations fall under the purview of criminal law. A more comprehensive understanding of the issues faced by migrant sex workers will follow in the next section.

Problems associated with migrant sex work

⁵ This perception is often shaped by the imagery and slogans used in several contemporary anti-trafficking campaigns (see Andrijasevic, 2007).

⁶ Bosnia and Herzegovina, Italy, Japan, the Netherlands and Serbia.

The direct correlation between migrant sex work and trafficking does more than obscure the fact that sex work is not inherently exploitative. It also fails to recognise that the problems faced by migrants who sell sex are a result of multiple intersecting issues that do not automatically translate to trafficking. Rather, most of these problems can be broadly considered as belonging to three potentially overlapping categories: issues which result from prostitution's status as a forbidden or at best a grudgingly tolerated (yet still repressed) activity, issues that affect workers in low-status occupations and issues that affect (undocumented) migrants.

There is an extensive abolitionist literature which associates prostitution with (almost) all social evils. MacKinnon (2011: 287), for example, lists various studies that link prostitution to drug and alcohol dependency, while Farley (2003, 2004) lists a large body of literature that documents the supposedly inherent nature of violence in prostitution and the great likelihood sex workers have of being infected by sexually transmitted diseases and developing other severe health complications. The veracity and particularly the universality of such claims, however, is not uncontested. Weitzer (2005), for instance, offers a broad criticism of such studies, as he considers that they often have a poor or unclear methodology, generalize specific situations as pertaining to the whole of the global sex industry and, perhaps most damning, are tailored to reflect the anti-prostitution bias of the researchers.

While the fact that many people selling sex face exploitative situations is undeniable, this does not support the assertion that the sex industry is inherently exploitative. Many of the most serious problems are not linked to the act of selling sexual services and its potential repercussions, but are caused or amplified by prostitution's "prohibited and penalized status, culturally and legally produced and promoted by capitalist patriarchy" (Catarino and Morokvasic-Müller, 2013). Per Pheterson (1993: 40), "such lack of choice is not inherent to prostitution but to abuse, poverty, poor working conditions, inexperience, or despair. Whores, like other workers, want to change those circumstances without necessarily changing their trade."

Many of the negative issues associated with the sex industry are thus amplified by the stigma which is associated with it. A stigma-theory – an ideology used to explain the alleged inferiority and danger represented by those who are stigmatized – is constructed to rationalize the discrimination exercised against certain groups and its negative consequences (Goffman, 1986: 5). The "whore stigma," therefore is "a social and legal branding of women who are suspected of being or acting like prostitutes" (Pheterson, 1990: 397) which legitimises the curtailment of their rights (such as bodily autonomy, mobility, free speech and privacy) and normalises the (physical, sexual, psychological) violence which is perpetrated against them.

Such stigma is also present when the prostitute is labelled as victim rather than deviant. Although the discourse in such cases emphasizes the need to support "the women who

have been prostituted,” they are often infantilized and silenced. The prostitute as victim is often an object of pity without agency (Pheterson, 1993: 43, 60).

This position is very common in countries that follow abolitionist models. Although sex workers are not penalized, like in prohibitionist regimes, the limits placed on their activities to “protect them”⁷ often compromised their safety and lead to “isolation, stigmatisation, marginalisation and social exclusion” (Wijers, 2004). They are universally silenced and their positive views on their profession are seen as misguided at best and a reflection of brainwashing and damage at worst.

Migrants who sell sex often need third parties to ensure they have viable work locales. Streets, which are perhaps the most conducive to autonomy, have been increasingly barred for sex workers due to growing zonification projects which include the application of large fines which can surpass the debt they own to third parties (Carranco and Sahuquillo, 2012). Apartments can be difficult to rent unless the migrant has the right documentation and demand a very large starting capital to pay the necessary deposit and fees. Shared apartments are a much more viable option, but are frequently considered by law to be brothels (and therefore prohibited) even if administered by sex workers in equal footing. Clubs, which are often reviled by abolitionists as dens of exploitation, are considered by many migrants to be the best working locales (Piscitelli, 2011).

While working conditions in the sex industry can certainly be precarious and exploitative, research undertaken by Anti-Slavery International and the Global Network of Sex Work Projects in the late 1990s showed that in the majority of cases most of the issues faced by sex workers resembled problems which are endemic to other low-status occupations in the informal sector, many of which are overwhelmingly associated with women (such as domestic service). These include exploitative terms of employment, no access to adequate health care and unsafe and unhygienic working environments, issues which could be addressed by existing labour instruments (Bindman and Doezema, 1997).

Bindman (1998: 65) posits that by separating sex work from all other forms of low-status informal labour one “hides the commonality, the shared experience of exploitation, which links people in all such work. The distinction between ‘the prostitute’ and everyone else helps to perpetuate her exclusion from the ordinary rights which society offers to others, such as rights to freedom from violation at work, to a fair share of what she earns, or to leave her employer.”

⁷ In some states, prostitution is seen as a viable economic activity as long as it is completely autonomous; the existence of pimps and brothel owners is seen as inherently exploitative because they benefit, at times significantly, from prostitutes’ work (Farley, 2004). Yet one must ponder if this is indeed a pernicious feature exclusive to the sex industry or whether it is not perhaps a greater reflection of the inherently exploitative nature of the capitalist system. By placing all blame for exploitative conditions on the nature of the activity and on third-parties, governments ignore the devastating role their own policies (particularly regarding migration, zonification and policing) have on the quality of life of sex workers.

The restrictions which are placed upon sex work and the refusal to grant it a legitimate status as an occupation mean that the support which is offered to recognised workers through national and international labour legislation is denied to them. A number of the abuses which are cited by abolitionists as recurrent in the sex industry could be properly combated, discouraged and sanctioned if sex work were inserted into a labour rather than a criminal framework. By considering prostitution harmful in itself and perennially coercive and exploitative, governments ensure that sex workers are less, rather than more protected (Vermeulen, 2001).

One must not forget that many of these issues are particularly common among migrant workers. (Female) migrants in the European Union, particularly if they are third-country nationals, are primarily welcomed into low-skilled and low-paying positions and therefore tend to be more susceptible to a number of labour issues which are associated with such jobs (Ayres, Barber, Antheas and Cederberg, 2013). Migrants are also often discriminated against in access to health services, insurance and information and frequently denied the social protection and social services which are made available to national workers. Moreover, they tend to be disproportionately exposed to occupational and environmental hazards (United Nations, 2003: 34, 43). These situations are aggravated if the migrant is undocumented.

The agency of migrants who sell sex is questioned even more than that of their native counterparts, particularly if they are migrants from developing countries settling in a developed nation. The argument used is that they are, at a minimum, victims of what Solana Ruiz (2011: 921) labels “structural trafficking.” That is to say, the poverty they lived in is considered a *de facto* position of vulnerability which is automatically being exploited when they join the sex industry abroad. Thus, regardless of their own desires and opinions and actual work conditions, they are seen as being “forced” to engage in prostitution. This assessment justifies the establishment of “anti-trafficking” policies which have negative repercussions to all migrants who sell sex.

Many migrants who sell sex finance their journey by acquiring debts with third parties that can range from family members to members of criminal organizations. It is very common to see such situation be indiscriminately labelled as “debt bondage” and highlighted as a sign of human trafficking (Vermeulen, 2001). This assessment, however, ignores the fact that such arrangements are extremely common in the migration of lower income migrants and that, like sex work, they exist in a continuum which goes from straightforward and selfless to deceptive and violent. It is only in cases where there is fraud in the transaction (such as when the total being asked for is greater than the agreed upon amount) or it results in exploitative labour conditions and/or violence and curtailment of rights (such as the passport retention) that situations of bonded labour and human trafficking may be present (Weitzer, 2014: 8).

Despite all the problems they are faced with, research with migrant women from developing countries as diverse as Bangladesh (Blanchet, 2012: 4) and Brazil (de Oliveira Assis, 2007) shows that their migratory experiences, even if problematic, often make women question the subservient and limited roles they were restricted to in their home country and can therefore be considered by them to be empowering.

The problems of addressing all migrants who sell sex as victims of trafficking

Migrants who sell sex face a diverse array of problems, the vast majority of which are completely unrelated to human trafficking and situations akin to slavery. Nevertheless, several countries label these migrants as victims of trafficking for commercial sexual exploitation without considering whether they fulfil the requirements established by the UN Protocol.

Most post-facto trafficking policies aim at identifying and “rescuing” alleged victims. Most migrants who are “rescued” are forcibly removed from their place of work and temporarily detained, even if they attest to the fact they are not being coerced or exploited. Their testimony is considered to be meaningless, and they are classified as either too “uneducated” to perceive they have been trafficked or too afraid of their traffickers to talk. While the latter may certainly be true, the fact that most migrant sex workers are more afraid of the local police than of their alleged traffickers is never mentioned in official discourses (Piscitelli, 2006).⁸

Those few that are officially labelled as trafficking victims often have to be willing to renounce sex work altogether, as well as to testify against their traffickers and prove to be an asset in the criminal proceedings against them to secure the limited benefits which are offered to “legitimate” victims. Those that are not considered valuable face an even harsher process. In countries which espouse a prohibitionist system, sex workers may be criminally charged. In countries where an abolitionist position prevails, they are still often treated as criminals even if officially considered as having been victimised. Unless they can prove they are not undocumented, migrants who sell sex are for the most part placed in detention centres (often without recourse and under problematic conditions) and subsequently involuntarily repatriated (Chuang, 2010: 1716).

Current policies, therefore, do not aim to improve the conditions of those involved in the sex industry, but to curtail the participation of migrants in it. It is therefore unsurprising that the trafficking framework does not address the problems which affect most migrants who sell sex and can, in fact, be counterproductive (Vermeulen, 2013). In the words of Chuang (2010: 1694):

⁸ In discussions which emphasize the perverse nature of pimps and clients, little to no emphasis is given to the fact that a large percentage of prostitutes in a variety of countries (particularly those with prohibitionist systems) single out the police as the greatest perpetrator of violence against them (Pheterson, 1993: 56).

The reductive trafficking narrative oversimplifies the problem of trafficking from a complex human rights problem rooted in the failure of migration and labor frameworks to respond to globalizing trends, to a moral problem and crime of sexual violence against women and girls best addressed through an aggressive criminal justice response. In so doing, the narrative circumscribes the range and content of anti-trafficking interventions proffered, feeding states' preference for aggressive criminal justice responses. It overlooks, if not discounts, the need for better migration and labor frameworks or socioeconomic policies to counter the negative effects of globalizing trends that drive people to undertake risky migration projects in the first instance.

In the next section we shall explore how the focus on damaging anti-trafficking policies and the presumption that all migrants who sell sex need to be “rescued” negatively impact Brazilian migrants who sell sex in Spain and Portugal, as it fails to address some of the most pressing problems faced by them.

Brazilian migrants who sell sex in Spain and Portugal

A problematic trafficking narrative

While there has been significant emphasis given to the idea that Spain and Portugal are main destinations for a large number of Brazilian victims of trafficking for sexual exploitation, the only thing that can be truly asserted is that the Iberian Peninsula is a significant destination for Brazilian migrants who sell sex (Brussa, 2009: 20). Existing policies however, focus solely on trafficking victims and even then in a problematic way, offering very limited “benefits” to an increasingly select group which fulfils a high threshold of both victimisation and usefulness for the judicial system.⁹

Four issues are often highlighted as undisputable signs of trafficking in the Iberian sex industry: third-party involvement (which is interpreted as forceful control exerted by traffickers), the existence of a debt (which is classified as “debt bondage”), the occurrence of (physical) violence (which is seen as perpetuated by traffickers) and restricted mobility (which is interpreted as movement control imposed by traffickers).

The idea of allowing only “completely autonomous” prostitution is highly problematic and tends to privilege a very small percentage of sex workers who have the necessary

⁹ The mere recognition that not all migrants who sell sex are trafficking victims is still problematic. Brazilian legislation, for instance, considers that all migrant prostitution which is not completely autonomous is a result of trafficking for sexual exploitation. Spanish legislation follows a pattern similar to the UN's in condemning “sexual exploitation,” which is not defined. However, the strict abolitionist position of the state and the way its policies are formulated suggests that Spain also considers that unless migrants who sell sex are acting in a completely autonomous manner, they are almost certain to be victims of trafficking. While in Portugal legislation and policies to not delineate a strict autonomous or forced divide like in Brazil and Spain, there is still a lingering understanding that certain categories of people (women with a low educational and socio-economic background) are too vulnerable to have agency (De Sousa Santos et al, 2007).

knowledge, resources and social condition which enable them to be independent. Dependence on a third party is not automatically a sign of trafficking or exploitation.

The secondary recruitment of sex workers by those already in the industry, for instance, is often seen in this context as a sign of trafficking. But while it is true that some traffickers pressure their victims to offer information about other potential targets and that some trafficking victims may “switch sides” and start working for their exploiters, this does not reflect the totality of such situations. Many sex workers offer information to club owners or even directly to their friends and acquaintances because they believe others could also benefit from working in the sex industry abroad. Some believe that lending money or giving information to those who wish to join the sex trade is a perfectly legitimate way to make a profit and are often extremely honest about the conditions their fellow Brazilians will encounter. These people repudiate the label of “trafficker,” as they do not consider they are exploiting anyone (Piscitelli, 2011: 206-207).

Regardless of their conditions and outcome, recruitments are often associated with trafficking as they almost always result in migrants acquiring a financial debt with a third party because they were unable to finance their trip themselves. In many cases the assumption is that these migrants are submitted to a form of debt bondage, where they will work in highly problematic, if not slave-like conditions to try to pay an insurmountable amount of money.

First, it is important to note that a large part of the narratives found in relevant ethnographic studies¹⁰ show that most Brazilians who have come to the Iberian Peninsula have done so completely or at least mostly in an independent manner. Even if a debt does exist, it does not automatically equal debt bondage. Many migrants, even those that pass through completely legitimate channels, contract debts to finance their trips. These debts can be owed to a variety of people and institutions (such as friends, family members, banks and money lenders) who are in many cases in no way connected to what happens to the migrants after they leave the country.

Even if those who lent the money are connected to the Iberian sex industry (a club owner or apartment madam, for instance), this does not mean that the migrants will be forced into an exploitative situation until they pay their debt, nor does it mean that their debt will be virtually unpayable. For many migrants paying these debts is a question of honour and they do so despite there being no legal contract that could enforce the payment and no coercive measures to ensure it (Malgesini, 2006).

On average the debts which are acquired by Brazilian women tend to be relatively small (often around 3000 Euros) although there are, of course, exceptions. Moreover, although women are often faced with additional costs, such as daily club fees, most

¹⁰ See for instance the works of Adriana Piscitelli, José López Riopedre and Laura Oso Casas.

debts seem to be repaid in relatively short amounts of time (Federación de Mujeres Progresistas, 2008: 234-235). In 2006 a Brazilian woman described what happened when she came to Spain to work in the sex industry:

[When I arrived in Barcelona], I still had to pay 800 Euros, but on the first week I had luck: I earned 1700 Euros, paid my debt and I still had some money left to send to Brazil (Piscitelli, 2011: 200).

Even when the values that are charged do not correspond to the costs of the journey, it does not necessarily follow that this in itself establishes an exploitative situation. A Brazilian woman working in the Barcelonan sex industry expressed her feelings on this matter very clearly back in 2004:

What is a mafia? Is it paying twice as much for a plane ticket? That is not a mafia... You want to go to Europe, but don't have money for the ticket. The ticket costs 1000 Euros, I buy it for you, because I have money, but I want 3000 Euros in return. You agreed to the deal. Business concluded. Done (Piscitelli, 2011: 206).

This does not mean of course, that there are no exploitative situations that fulfil the UN's trafficking definition. When migrants are not informed about the existence of debts, deceived about their amount or how easy it will be to pay them, have their freedom curtailed and documents removed until the debts are paid, are unable to keep any or keep very little of their earnings and/or are submitted to a variety of fines or extra expenses which disproportionally increase their financial burden, there is a great possibility that all three elements of the UN Protocol's definition are present.

The confirmation of trafficking is perhaps most often associated with the presence of violence. While in both Spain and Portugal migrants who sell sex face a higher risk of violence than the general population (Brussa, 2009), their main source of fear is not the violence which can be perpetrated by clients or pimps, but state-sanctioned violence through the police forces, as well as migration and border officers (Piscitelli, 2006: 48), the people who are charged with "rescuing" them from exploitative situations. Stories of unnecessary arrests, long and unjustifiable detention periods, physical, verbal and sexual violence, threats, extortion of money and sexual services, and overall persecution are recurrent among all sex workers, but seem to be particularly prevalent in the narratives of migrant and trans¹¹ prostitutes (Agustín, 2001: 557). This leads them to flee from the police as much as they can rather than rely on it for protection.

¹¹ The emic term "trans" is being used here to refer to "travestis" (as per the terminology used in Brazil), as well as transsexual and transgender persons. Because there appears to be no data or mention of trans male individuals in the context of trafficking and the sex industry in Brazil, "trans" shall refer to individuals who were assigned male at birth and were, to some degree, dissatisfied with this label.

In the Iberian Peninsula, Brazilian sex workers seem particularly concerned about the fact that the officers' primary motivation in approaching places where prostitution takes place is not investigating possible abusive conditions or trafficking cases, but ensuring that there are no irregular migrants present. Barbara Love, a sex worker from the state of São Paulo, sees it this way:

So I also think that the problem that exists with prostitution is because the most of us are foreigners. It's a migration problem. When the police arrives at the club and conducts a raid, it only arrests the foreigners. The Spanish women that work in prostitution have no problems. Because of that, I say that it might be a question of migration and politics. I feel a lot of pity when the police comes and catches the girls to deport them. They should be financially compensated. It's not fair. (López Riopedre, 2010: 311).

The fact that these actions against irregular migrants are, at least in Spain, almost always focused on those working in the sex industry is also harshly criticised. As put by Janaína, from Mato Grosso,

The police should go to the clubs to protect the girls, to look after the safety of the girls and not to go after the foreigners. Why don't the police go to the houses and apartments where the undocumented girls work as maids? (López Riopedre, 2010: 631).

The fear engendered by the police and migration officers often expresses itself in a voluntary retirement from public life. Although cases where women rarely leave the clubs and/or apartments they work in are often automatically read as movement restrictions imposed by traffickers, it seems that many sex workers make the decision to stay indoors so as to have a smaller chance of being detected by migration officers (Oso Casas, 2010).

Fear of authorities also leads migrants who sell sex to lead an itinerant life, using the constant movement between working locations as a strategy to bypass police checks. Besides safety, such constant movement is also stimulated by the desire to find better work conditions and better payment, as sex workers tend to earn more when they are new to a particular place (López Riopedre, 2010).¹²

Problems faced by Brazilian migrants in the Iberian sex industry

¹² This constant mobility led to the development of the so called *plaza* system which is widespread in Spain and also very popular in Portugal. In this system sex workers (usually women, though trans and male workers have been known to take part) spend a set amount of time (usually three weeks in Spain and two in Portugal) working non-stop in a club or apartment before moving to another location (López Riopedre, 2010).

While human trafficking for the purpose of sexual exploitation is certainly a reality in the Iberian Peninsula, the insistence on interpreting any potentially problematic conditions faced by Brazilian migrants who sell sex in Spain and Portugal as trafficking ends up being damaging, as current trafficking policies tend to bring negative repercussions to most migrants.

The failure to consider that a significant part of the problems faced by migrants who sell sex are not connected with trafficking is as damaging as such problematic “rescue” operations. By focusing exclusively on trafficking, governments and NGOs fail to address issues which result from prostitution’s status as a forbidden or at best a grudgingly tolerated (yet still repressed) activity, as well as issues that affect workers in all low-status occupations and (undocumented) migrants.

The violence perpetrated against sex workers has many forms and does not always come from pimps, clients or the police. It often comes from society and its view on sex work. This social stigma attached to prostitution seems almost universal and is the basis of the societal models in which the sex worker – seen either as victim or danger to society – is unable to enjoy the rights conferred to people in other professions. This leads to low self-esteem, loss of interpersonal networks, as well as higher exposure to exploitation, violence and isolation (Oliveira, 2012: 35). In the words of Gabriela Leite, one of the pioneers of the sex workers’ rights’ movement in Brazil, “[t]he greatest violence inflicted on the prostitute is the prejudice against her activity and the stigma attached to it” (Ribeiro and Sacramento, 2005: 75).

In the Iberian Peninsula, the whore stigma is far reaching. Due in part to the way they are portrayed in both the Spanish and Portuguese media (Badet Sousa, 2010; Pontes, 2004), Brazilian women have been increasingly linked to prostitution and have had to feel the brunt of the “whore stigma” even if they have never participated in sex work. The situation appears to be particularly problematic in Portugal. In the perception of Alexandra, who migrated to that country, the situation is worse outside the sex industry than in it:

In the [club] the Brazilian woman is much more respected than if she was working in a restaurant. I worked for over three months in restaurants, but because we have a Brazilian accent, we are soon told to shut up. Once a client started to say I was a whore, that I was good in bed. ... In a restaurant we are not able [to work] (De Sousa Santos et al., 2007: 120).

The situations of greatest discrimination often take place when sex workers seek the help of public institutions (López Riopedre, 2011: 12-13). In the case of Brazilian migrants who sell sex, this situation is made worse by the fact that such prejudices appears to be present not only in the public institutions of the receiving countries, but also in the institution which was designed to be of utmost help to them: the Brazilian consulate. There is a widespread perception among Brazilian migrants that the

consulates do not wish to help sex workers and trans individuals (who in Brazil are often associated with prostitution), even if they have been exploited. Personal accounts indicate that such people have in fact been turned away in some consulates without receiving help (Blanchette and da Silva, 2011: 94).

It is not uncommon to see ways in which migrants who sell sex have internalised some of the premises of the “whore stigma.” Many of them are disgusted by prostitution and only participate in it because they feel they have no choice. This is not to say that they are being forced or coerced in any way or are engaging in survival sex. Rather, they feel that in any other job they would be unable to earn in a relatively short amount of time the necessary amount of money they need to fulfil their ambitions. Others try to detach themselves from the undesirable “whore” image, labelling themselves as professionals who take no pleasure from the sexual aspect of their work and condemning those women who are promiscuous simply because they enjoy sex and thus are, according to them, the “true whores” (López Riopedre, 2010). Amanda from Mato Grosso, has this point of view:

For me the worst thing about prostitution is the discrimination, how people look at you... And here there are women who are greater whores than us, who sleep with ten, twenty men and do it for free. These are the whores. I’m a call girl, I charge for my work, I’m not a whore. Here the worst ones are the Spanish women, they are the ones that discriminate most against us (López Riopedre, 2010: 470).

Despite the fact that most abolitionist narratives single out violence, drugs and alcohol dependence, and diseases as the “accompanying evils” of prostitution, it seems that some of the most recurring complaints from the sex workers themselves are much more ordinary. One of the most common problems Brazilian sex workers have with their Iberian clients does not involve violence, but is in fact centred on the clients’ low levels of personal hygiene. The issue of hygiene is also a prevalent complaint when it comes to clubs, which are often criticised for subpar installations and lack of adequate bathing facilities, a criticism also directed towards many working apartments (López Riopedre, 2010).

The problems are not restricted to the physical conditions of the buildings: many sex workers complain of low temperatures, loud music and copious cigarette smoke in clubs. Environmental conditions, particularly the cold, are also clearly an issue when it comes to street prostitution. Other issues are repeatedly brought up, such as the quality of the food in clubs and apartments and the fact that in both street and club environments sex workers are often expected to stand (often wearing high heels) for long amounts of time, which can cause physical discomfort (López Riopedre, 2010).

All of these issues, while present in the narratives of those working in the sex industry, are not limited to it. People who work in stores and factories often have to stand for

large amounts of time, street vendors are also susceptible to the weather and many other sectors, including domestic work, expose people to unhygienic environments and gruelling working practices, such as excessively long working hours. Silvia, originally from Rondônia, considers that some of the disadvantages of sex work are also present in many other professions:

I am a bit tired, but this is because [sex] work can also bore you, like there are other kinds of work which can be very tiring and boring. For instance, lorry driver. I worked as a lorry driver and also got tired (López Riopedre, 2010: 517).

There are thus significant commonalities between situations faced by Brazilian migrants who sell sex in the Iberian Peninsula and those faced by workers in low-skilled and low-paying jobs, particularly in the informal sector. Many, although not all, of the sex industry's problematic labour conditions stem from the fact that sex work, while not illegal, is not recognised as a legitimate form of work in Spain and Portugal. Therefore, sex workers in these countries do not have access to a variety of advantages attached to being a part of the formal economy, like social security and the guarantee of minimum labour standards, such as the right to unionise or establish a maximum amount of working hours per week.

Thus, it is not surprising that many people involved in the sex industry would like to see prostitution treated as any other profession, even if it means increased costs and restriction imposed upon them. Janaina, a sex worker from Mato Grosso working in Spain sees it this way:

I think it would be good if they made a law legalizing prostitution. This way we could have the right to social security and we would also have medical coverage. This is very hard work, a profession with many risks and, because of that, of course, we should have our rights. I would be willing to pay my taxes (López Riopedre, 2010: 630).

There are those, on the other hand, who believe that the status quo – where the industry is not in itself illegal, but is also not regulated – should not be changed. There are a number of reasons for that. First, there are those who object to the formalisation of the sex industry if it is done in a classic regulationist model.¹³ State control of what it is considered to be a “necessary evil” and particularly the sanitary control of sex workers,

¹³ Some sex workers believe that rather than creating a regulationist model, prostitution and activities related to it should undergo a process of decriminalisation and depenalization. That is to say, activities associated with families, clients, other third parties and even fellow sex workers (living off the earnings of prostitution, keeping a brothel, procuring) should not be criminalised while certain administrative and other general offences (such as loitering and public nuisance) should be reformed as to ensure they are not used to punish sex workers (GNSWP, 2013).

who are almost always considered as potential vectors of disease, is seen by many as demeaning (López Riopedre, 2010).¹⁴

A second issue is that some sex workers believe regularisation would eliminate many of the greatest advantages of the sex industry, such as its flexibility (including working as many hours as an individual sees fit) and its ability to generate large amounts of tax-free income in short amounts of time. In the words of Xuxa, a trans sex worker from Minas Gerais living in Spain,

Regarding prostitution my opinion is that society shouldn't interfere too much. They should leave us alone. I don't want to pay taxes [...] Working in prostitution you can earn a lot of money. But this is because there is no government control. If they legalize it, they would afterwards come and say: you earn too much money, you have to pay (López Riopedre, 2010: 496-497).

A third and no less important issue is the already acknowledged fact that many migrants have internalized the stigma attached to selling sex. Although they have chosen, for a variety of reasons, to work in the sex industry, they do not want this fact to be advertised, particularly to their families, or to go on a permanent record. Letícia, who was born in the city of São Paulo, is one such person:

I was so afraid my family would find out. I still am. They think I work in a restaurant. Yes, they know I'm illegal and the problems we have to obtain the residence papers, but they don't even imagine I'm working in prostitution (López Riopedre, 2010: 477).

Lastly, there are those who believe that the regularisation of sex work would not benefit (and could in fact further undermine) migrants who sell sex. When a regulatory model based on the majority of those which exist in Europe is advocated for, what is being considered is the implementation of a system that explicitly excludes the possibility of non-EU citizen claiming prostitution as an income-generating activity for migratory regulation purposes (Danna, 2003: 10).¹⁵ This would only serve to drive migrant sex workers deeper underground and into even more hazardous situations.¹⁶

¹⁴ It is relevant to note that some sex workers, on the other hand, think that mandatory health checks are a perfectly reasonable way to ensure health standards for those working in the sex trade (López Riopedre, 2010).

¹⁵ While the European Court of Justice ruled in *Jany and others v Staatssecretaris van Justitie* (Case C-268/99) that EU citizens could not be barred from earning their livings as sex workers in a country where the occupation is regularized (Vermeulen, 2013), this recourse did not extend to third country nationals, who are still unable to join the sex industry legally.

¹⁶ By denying migrant sex workers the opportunity to become documented migrants, several rights are also being denied to them. In Spain, these include the right of free movement in the country's territory, the right to social security and family reunification, as well as the right to work autonomously (Arella et al., 2006: 68), all of which are essential to the well-being of sex workers.

The stigma and problems faced by sex workers is exacerbated by the fact that the Brazilians who work in the sex industry are also (irregular) migrants, a situation which has its own negative associations (Oliveira, 2012: 35-36). In both Portugal and Spain there has been in recent decades an ethno-stratification of the labour market where migrants from developing countries have taken over the low-paying, low-qualified jobs, even if they held higher status occupations in their home countries. A combination of assumptions about their gender, class and ethnicity has relegated most migrant women to marginal jobs which often make them invisible, such as domestic service and sex work. In both job sectors Brazilian women are often submitted to long working hours, improper working environments and harassment (Sole and Parella, 2003; Masanet and Padilla, 2010; Gonçalves Baptista, 2011).

A final issue which is particular problematic for (undocumented) Brazilian migrants working in the sex industry is housing, a problem which also affects migrants in other sectors and even foreign students (Pelúcio, 2009: 186). While some sex workers consider that living in the same club or apartment they work in is a way to save time and money, others dislike doing so as they consider that this arrangement makes it difficult to separate their private and professional lives. Sex workers who separate their living and working environments tend to find considerable improvements in their quality of life (Oso Casas, 2010: 56).

Acquiring a place to live, however, is not always an easy prospect. Like other migrants who do not have access to the mainstream market, they often have to pay considerably more money than nationals of the country to be able to rent a property. Brazilian women in Portugal are often unable to rent a place even if they have proper documentation because many landlords fear that their property will be used as a brothel (Malheiros and Fonseca, 2011: 12). At times, migrants are obliged to use third parties who must be dully (monetarily) compensated to sign the paperwork on their behalf (Pelúcio, 2009: 186).

Conclusion

When we analyse the problems faced by Brazilian migrants who sell sex in the Iberian sex industry, we find that the vast majority of them are not intrinsically tied to trafficking. Moreover, contrary to the emphasis given to the issue of sexual exploitation, a relatively small part of the complaints of Brazilian sex workers in Spain and Portugal recorded in ethnographic studies have to do with sex in itself. Rather, we find that existing problems are primarily a result of a combination of three overlapping factors: the semi-illicit nature of the sex industry, its parallels with low status occupations and general problems faced by (irregular) migrants.

When such problems are all dealt with through trafficking policies which address the issue primarily as a criminal matter without considering its labour and migratory implications, a disservice is done not only to the victims of trafficking themselves, but

to all migrants who sell sex. The UN Trafficking Protocol is widely recognised as a weak instrument when it comes to victim protection provisions and in practice does little to improve the situation of those who have been trafficked or exploited, which is not surprising considering that its focus is the punishment of crime rather than the assurance of human rights. Often, in fact, many “anti-trafficking” actions only serve to further victimise migrants who sell sex. By focusing on “combating” trafficking as a problem connected mainly with the existence of organized crime and “rescuing” victims on an individual basis, often by removing them from their income generating environment, rather than trying to improve the labour and overall living conditions of migrants who sell sex (Shamir, 2011: 36), countries end up further victimising in direct and indirect ways those they claim to want to help.

In this sense, rather than focus on punishing the crime, “rescuing” victims and or curtailing or destroying the sex industry, the best way to ensure the improvement of the lives of all migrants who sell sex is by improving migrants’ working conditions, guaranteeing their legal protection and ensuring their access to necessary services (Peršak, 2013: 319; Vermeulen, 2013). Thus, the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which protects migrants regardless of their status and which sector they work in, as well as the ILO labour rights conventions should be the international treaties setting the basic standards for dealing with all migrants who sell sex rather than the UN Trafficking Protocol and similar instruments.

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